

QA 28126

**Comments  
of the  
National Private Truck Council  
to the  
Federal Highway Administration  
on the  
English Language Requirement; Qualifications of Drivers**

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**October 27, 1997**

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DEPARTMENT OF TRANSPORTATION

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Room PL-401  
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Re: FHWA Docket No. FHWA-97-2759-**46**  
English Language Requirement; Qualifications of Drivers  
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## **BACKGROUND**

These comments are submitted on behalf of the members of the National Private Truck Council (NPTC), a national trade organization representing manufacturers, processors, distributors, retailers, and construction, mining, and service companies that use their own corporate or "private" truck fleets to meet their inbound and outbound transportation requirements. In addition, at least 35-percent of NPTC's members have "for-hire" operating authority, which also allows them to haul products for other companies and concerns.

According to the most recent Truck Inventory and Use Survey (TIUS 92) published by the Department of Commerce's Economics and Statistics Administration, private truck fleets include 3.8 million (approximately 75-percent) of the medium and heavy-duty trucks (i.e., over 10,000 pounds GVW) registered in the United States. Additionally, this survey revealed that private truck fleets traveled more than 63 billion miles annually, representing approximately 54-percent of all the U.S. miles traveled for medium and heavy-duty trucks.

The private trucking industry is comprised of many segments, each of which is tailored to best meet the needs and specialized transportation requirements of our members' companies. Some of the predominant segments are:

- **Local/Short Haul Segment:** Trucking operations confined to an area within a 100 Air-Mile radius of a terminal or the primary place a driver reports to work that provide pick-up and delivery services to and from customers' shipping and receiving facilities.

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- **Over-the-Road (Linehaul) Solo Driver Segment:** Trucking operations that extend beyond a 100 Air-Mile radius and provide pick-up and delivery services to and from customers' shipping and receiving facilities.
- **Terminal-Terminal Solo Driver Segment:** Trucking operations that extend beyond a 100 Air-Mile radius.
- **Over-the-Road (Linehaul) Team Driver Segment:** Two-driver trucking operations that extend beyond a 100-Air-Mile and provide pick-up and delivery services to and from customers' shipping and receiving facilities.

## **SAFETY MISSION AND GUIDING PRINCIPLES**

Protecting the safety of the motoring public as well as private carriers' employees on our nation's highways is of utmost importance to NPTC members. Our goal is zero accidents, injuries, and incidents. The safety of employees, customers, and the public is our top priority. Businesses that operate private fleets view safety measures, such as a driver's proficiency with the English language, as standards to ensure that the corporate safety culture is mirrored through the on-road safety performance their fleets.

NPTC is proud that a recently-published study (audited by officials from the Federal Highway Administration's Office of Motor Carriers) of 75,577 firms, over a five-year period, determined that private carriers had reportable accident rates nearly 20-percent lower than those of for-hire carriers.<sup>1</sup> We believe that this statistic helps to illustrate our members' commitment to safety.

Following are NPTC's comments regarding proposed changes in section 391.11(b) of the Federal Motor Carrier Safety Regulations (FMCSRs) which requires drivers to possess the basic functional communications and comprehension abilities necessary to ensure safety.

## **PROPOSED CHANGES IN THE ENGLISH LANGUAGE REQUIREMENT**

The ANPRM states that the Federal Highway Administration (FHWA) is considering a revision to the current English language requirement for drivers of commercial motor vehicles to reconcile its obligation to assure adequate communication on the part of commercial motor vehicle drivers with concerns of possible discrimination raised by the present rule.

The current requirement states that commercial motor vehicle drivers, "be able to read and speak the English language sufficiently to converse with the general public, understand highway safety signs and signals, respond to official inquiries, and make entries on reports and records."

One significant change is being considered in the aforementioned ANPRM—establishing a set of performance-oriented standards based on tasks a driver is expected to perform which require knowledge of the English language. NPTC opposes this change.

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<sup>1</sup> Leon M. Moses and Ian Savage. "The Effect of Firm Characteristics on Truck Accidents." *Accident Analysis and Prevention*. Vol. 26, No. 2. Elsevier Science Ltd., 1994. pp. 173-179.

As previously noted, safety is a top priority for NPTC's members. Therefore, private carriers have their own internal systems in place to ensure that their drivers are able to read and speak the English language sufficiently to converse with the general public, understand highway safety signs and signals, respond to official inquiries, and make entries on reports and records.

The NPTC's comments regarding the consideration of a proposed change are detailed below.

### **NPTC'S POSITION**

The NPTC believes that the safety of its members drivers and the motoring public is important. For safety reasons, we also believe that it is important for drivers to have an understanding of the English language. Drivers who can understand English have the ability to be safe drivers since they are able to safely perform the tasks they are expected to perform when hired for the job. Additionally, NPTC members know the safety of the general public can not be compromised in situations such as:

- Highway incidents where the driver would be required to communicate information about cargo or the nature of the operation to traffic officials
- Roadside inspections at weigh stations where the driver would be required to respond to inquiries from enforcement officials regarding cargo, operating condition of equipment, or knowledge of Federal Motor Carrier Safety Regulations

When promulgated, section 391.11(b) of the FMCSRs presumed that a motor carrier employer knew which communications skills may have been necessary for the type of cargo handled, the route to be taken, and the contact with the public that may be necessary. Currently, FHWA recognizes that section 391.11(b) was originally intended to be enforced through the motor carrier employer, i.e., it was the employer's responsibility to evaluate the driver's proficiency of the English language in the context of his or her duties and responsibilities.

This presumption that a motor carrier employer knows the communication skills needed for a driver to be able to conduct his or her work in a safe and effective manner has stood the test of time, and has proven to be true for private fleets. These businesses know the skills that their drivers must have to drive safely; they do not need performance-oriented standards to mandate a procedure to tell these businesses what they already know.

Since each private carrier may require unique communication skills for its drivers, the amount of English language proficiency required for one type of carrier may be different than that of another. Due to these diverse needs, the English language skills of a particular driver may be acceptable for one carrier, while unacceptable for another. Our members have their own, individualized systems in place which meet their own specialized needs in the area of English language proficiency.

The NPTC is sensitive to the Department of Transportation's concern that 391.11(b) may conflict with Title VI of the Civil Rights Act of 1964, which prohibits discrimination in the administration of federally funded programs based on race and national origin. However, we do not feel that the current regulation is discriminatory.

## **SUMMARY**


The NPTC supports FHWA's efforts to improve safety on America's highways and ensure the protection of civil rights in the administration of the FMCSRs. However, we urge caution in changing a rule which we believe does not discriminate in the areas of race or national origin of drivers, and is currently working well to ensure that private carrier drivers exhibit a level of English language proficiency which meets the needs of their respective employers.

We understand that there is a delicate balance for FHWA to ensure public safety and civil rights, while providing a regulatory environment for private carriers which is not overly burdensome; we believe that 391.11(b) fairly balances all three of these concerns.

## **ANY FOLLOW-UP AND/OR QUESTIONS SHOULD BE DIRECTED TO:**

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